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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,646	08/02/2002	Richard Hook	13DV13181	3705

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CANTOR COLBURN, LLP
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EXAMINER

MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
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3663

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/28/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/064,646

Applicant(s)

HOOK ET AL.

Examiner

Ronnie Mancho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The applicant needs to disclose how one skilled in the art, in determining the temperatures as directed by the invention, will know that the temperature which they are determining is a maximum or minimum temperature. As a matter of fact, applicant has indicated that the temperatures being determined are not fixed values and are to be enforced by a computer. This will make it difficult and impossible for one skilled in the art to know that that the temperature which they are determining is a maximum or a minimum. Moreover, no criteria were given to alert one skilled in the art on how to establish a maximum or minimum temperature. The rejection applies to the claimed “minimum ring flame temperature boundary” and “nominal ring flame temperature”.

Although the applicant admits that it is well known in the engineering art that “nominal” generally signifies “normal” or in accordance with engineering specifications. The applicant did not admit that the limitation, “defining a nominal ring flame temperature *by calculating from the*

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minimum and maximum ring flame temperatures when said temperature window size is greater than a predetermined minimum window size". The rejection also applies to "minimum window size".

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Further in claim 1, the applicant recites, "maximumflame temperature" or "minimum.....temperature". The questions arises in regard to what maximum or minimum degrees of temperature the applicant is referring to ? It is not clear what all is meant and encompassed by the term " maximum" or "minimum". Therefore, "a *maximum*" or "a *minimum*" are indefinite.

Further in claim 1, "defining a nominal ring flame temperature by calculating from minimum and maximum rang flame temperatures" is indefinite. It is not clear what all is meant and encompassed by the term "nominal" as claimed.

Response to Arguments

5. Applicant's arguments filed 10/11/06 have been fully considered but they are not all persuasive.

The applicant argues that the one skilled in the art would certainly consider the scope of the amended claims to have a well established utility. The examiner respectfully disagrees. It is

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noted that the amendment further recites, “the maximum ring flame temperature boundary representing a maximum ring flame temperature to be permitted by the controller”. Applicant’s disclosure does not teach how the claimed computer will permit the maximum ring flame temperature operational boundary. Applicant needs to disclose how one skilled in the art, in determining the temperatures as directed by the invention, will know that the temperature which they are determining is a maximum or minimum temperature. As a matter of fact, applicant has indicated that the temperatures being determined are not fixed values and are to be enforced by a computer. This will make it difficult and impossible for one skilled in the art to know that that the temperature which they are determining is a maximum or a minimum. Moreover, no criteria were given to alert one skilled in the art on how to establish a maximum or minimum temperature. The rejection applies to the claimed “minimum ring flame temperature boundary” and “nominal ring flame temperature”.

Although the applicant admits that it is well known in the engineering art that “nominal” generally signifies “normal” or in accordance with engineering specifications. The applicant did not admit that the limitation, “defining a nominal ring flame temperature *by calculating from the minimum and maximum ring flame temperatures when said temperature window size is greater than a predetermined minimum window size*”. The rejection also applies to “minimum window size”.

Next, the applicant argues that the examiner had allowed the claims of the present invention Oct, 2004. However, the examiner had indicated that the allowance was invalid and as such a new office action with a rejection of the claims was issued by the office.

By this amendment, it is noted that the applicant has overcome the 101 rejection.

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It is thus believed that the 112 rejections are proper and stand.

Communication

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronnie Mancho
Examiner
Art Unit 3663

12/26/06


JACK KEITH
SUPERVISORY PATENT EXAMINER